

Proceeding: IMPLEMENTATION OF SECTION 255 OF THE TELECOMMUNICATIONS AC Record 1 of 1

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Before the  
Federal Communications Commission  
Washington, D.C.

In the Matter of	)	
Implementation of Section 255 of the	)	
Telecommunications Act of 1996	)	
	)	WT Docket No. 96-198
Access to Telecommunications Services	)	
Telecommunications Equipment, and	)	
Customer Premises Equipment	)	
by Persons with Disabilities	)	

**Reply Comments of the**  
**League for the Hard of Hearing**

**Introduction**

The League for the Hard of Hearing (League) respectfully submits these reply comments in response to the Federal Communications Commission's (Commission's) Notice of Proposed Rulemaking (NPRM) on Section 255 of the Telecommunications Act of 1996.

The League is an agency that has been providing services to people who are deaf, deaf-blind, and hard of hearing since 1910. Annually, the League provides services for 21,000 individuals and their families from all economic, social and ethnic backgrounds. We offer access to diagnostic, rehabilitation, counseling and education programs. We wish to offer the Commission our perspective as professionals who work with people who are deaf, deaf-blind and hard of hearing.

## 1. Access Board Guidelines

The League strongly urges the Commission to adopt the Access Board's Guidelines. The Commission itself could not be more clear about the importance of Section 255 when it states: "Given the fundamental role that telecommunications has come to play in today's world, we believe the provisions of Section 255 represent the most significant governmental action for people with disabilities since the passage of the Americans with Disabilities Act of 1990." NPRM at 4. The guidelines are the key to interpretation of Section 255. The League believes that the guidelines set by the Access Board are fair, clear for manufacturers, and provide the best route to access for consumers with disabilities. These guidelines fill the mandate Congress set forth.

We agree with other organizations which conclude it was the intent of Congress when it authorized the Access Board as the primary agency to develop guidelines and the Commission to enforce such guidelines. Comments of SHHH at 4. We agree with commenters that the Access Board is uniquely suited to this task given its past experience with the Americans with Disabilities Act and the Architectural Barriers Act. Comments of SHHH at 4. It would seem redundant, a waste of resources, and potentially confusing to have both the Access Board and the Commission develop guidelines.

If the objection to the Access Board's guidelines is the nature of the guidelines themselves, we would reply that we believe that Congress would not have entrusted the Access Board with the responsibility of developing guidelines had they no confidence in the outcome. If the Commission seeks to use these guidelines as a "starting point" only, why is that? Is it because they would prefer market forces to prevail, in effect stepping aside altogether? We would contend that it is precisely because the market does not respond to the needs of this substantial minority of the American public that Congress included Section 255, and left the writing of the guidelines to the Access Board, with its extensive history of providing such guidelines.

In addition we urge the Commission to likewise adopt guidelines for services. That approach would best facilitate access to both equipment and services. As stated by SHHH, "All interests – industry, consumers and the Commission will be best served by a rule that clearly states the requirements of both equipment and services." Comments of SHHH at 4.

We urge the Commission to defer to the Access Board guidelines both for equipment and for services.

## 2. Readily Achievable

The League joins with other parties to this proceeding that have concluded that the Commission's analysis of "readily achievable" is markedly different and has deviated too far from the interpretation of the definition of this standard under the Americans with

Disabilities Act. If, as the Commission is suggesting, the definition of readily achievable is expanded to include market considerations and cost recovery, the kind of access to telecommunications for people with disabilities that Congress envisioned under Section 255 will never come to pass.

As we stated earlier, market pressures are not the driving force behind the development of products for people with disabilities. If a manufacturer is looking for the widest market, they cannot look to people with disabilities first. That is precisely why Congress intervened. We agree with SHHH when they note, "...although certain economic and cost factors are appropriate in the determination of readily achievable (i.e., overall resources of the entity, nature and cost of the action), cost recovery and market considerations have no place in the consideration of disability access. These are concepts that would not only undermine the intent of Section 255 but could also negatively impact the general approach to disability access as it has evolved in the United States in the past 10 years." Comments of SHHH at 18-19.

We urge the Commission to view the readily achievable standard in a way that is consistent with the ADA.

### 3. Complaint Process

#### **A. Filing fees**

The League supports the Commission's proposal not to require filing fees for complaints directed at equipment manufacturers and service providers that are not common carriers. We believe that such a filing fee would serve to discourage consumers from lodging legitimate complaints. Filing those complaints may not only result in relief for the individual consumer, but result in greater access for other consumers once the complaint has been resolved, and further serve as an object lesson for other manufacturers who might consider flaunting the law.

Therefore, we see no reason to require a filing fee, and in fact, believe it to be in the public interest to forgo filing fees for complaints. We applaud the Commission for including this proposal.

#### **B. Standing requirements**

The Commission has proposed that complaints filed under Section 255 not be subject to a standing requirement. The League is concerned that if standing is broadened from people with disabilities and the organizations that represent them to all comers, Section 255 will lose its consumer oriented focus and instead become a means for competitive disputes between commercial entities.

We believe there should be a standing requirement for filing complaints.

## **Conclusion**

Section 255 is a critical component of the Telecommunications Act of 1996 for people with disabilities. We applaud the Commission's work on this important matter. We thank you for this opportunity to submit comments.

Respectfully submitted,

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